

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Daries Sherrills,

:

Plaintiff : Civil Action 2:06-cv-485

v. : Judge Sargus

Terry Collins, *et al.*, : Magistrate Judge Abel

Defendants :

**ORDER**

This matter is before the Court on plaintiff Daries Sherrills' March 10, 2011 motion for reconsideration of the Magistrate Judge's March 2, 2011 Order denying his motion for the Court to take judicial notice of certain newspaper articles and reverse his conviction based on improprieties in DNA evidence submitted at trial (doc. 61). The Magistrate Judge concluded that plaintiff was attempting to file a writ of habeas corpus based on actual innocence. Because plaintiff filed the motion in a closed case concerning the conditions of confinement in prison, the Magistrate Judge denied his motion.

In his motion for reconsideration, plaintiff argues that the Federal and State courts are denying him access to the courts because of unwarranted filing fees. He maintains that the Court knows his conviction is a nullity based on his previous lawsuit in which he prevailed. He maintains that the Ohio Attorney General is attempting to

have the Ohio Supreme Court conceal the State's failure to comply with rulings of the Sixth Circuit and the United States Supreme Court.

He argues that the State suppressed emergency room reports and examinations, DNA test results, Detective Joseph Serowick's testimony, and a B.C.I. forensic report demonstrating the breach of security protocols and cross-contamination of evidence.

The FBI ordered plaintiff to be released on May 3, 1988. The Cleveland Police Department unlawfully kidnaped him on August 3, 1988. Plaintiff was improperly resentenced because the trial court had no jurisdiction over him.

Plaintiff further argues that the three strikes provision should not have been applied to his closed case because he does not have three prior cases which have been deemed frivolous. He maintains that he is still being imprisoned unlawfully.

As the Magistrate Judge concluded, plaintiff's request appears unrelated to the closed case in which he has file the motion. Plaintiff's March 10, 2011 motion for reconsideration (doc. 61) is DENIED.



4-6-2011

Edmund A. Sargus, Jr.  
United States District Judge